



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|--------------------------------|------------------------|
| 10/523,934 | 03/29/2005 | Tan-Nhon Pham | Q86072 | 1937 |
| 23373 7590 01/04/2008 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037 | | | EXAMINER SMITH, CREIGHTON H | |
| | | | ART UNIT 2614 | PAPER NUMBER |
| | | | MAIL DATE 01/04/2008 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/523,934

Applicant(s)

PHAM ET AL.

Examiner

Creighton H. Smith

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07.05.05</u> . | 6) <input type="checkbox"/> Other: ____. |

Claims 2, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 2 there is no antecedent basis for "said standard"

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1- 7 are rejected under 35 U.S.C. 102(E) as being anticipated by Chen et al, U.S. Patent Publication #2003/0053464.

Chen et al disclose in ¶-0003 that a UMTS Quality of Service (QoS) relies upon the use of "DiffServ" at the IP transport bearer level for the QoS differentiation and control. DiffServ, as defined in Newton's Telecom Dictionary, page 307, 23rd edition, is a technology that allows IP-based providers to offer differentiated levels of service to individual customers and their information streams. "On the basis of DiffServ Code Point (DSCP) a marker in the header of each IP packet, the network routers would apply differentiated grades of service to various packet streams, forwarding them according to different Per-Hop-Behaviors (PHB). For an additional charge, DiffServ will allow service providers to provide a certain user with a preferential Grade of Service (GoS) for all packet traffic with appropriate indicators in the packet **headers**." In ¶-0017

Chen et al disclose the use of routers, and in ¶-0009 they disclose "hop-by-hop routing". In ¶-0017 Chen discloses that the routers route each packet through the MPLS network dependent on the QoS class flag assigned.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

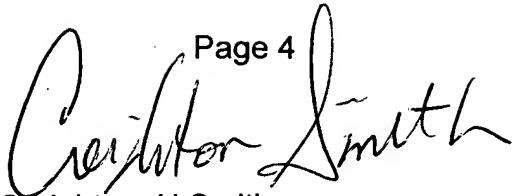
Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Chen et al, U.S. Patent Publication #2003/0053464 or Madour et al, U.S Patent Publication #2004/0028055.

Chen et al (the secondary reference) discloses in ¶-0091 that provisioning server 27 supports billing functions, and Madour et al disclose in ¶¶-0010 & 0040 that the Authentication, Authorization and Accounting (AAA) server 108 along with a billing center 109 are responsible for the charging with respect to the packet data flow in network 100. To have provided either Chen et al or Madour et al billing system and server into Chen et al network would have been obvious to a person having ordinary skill in the art because the skilled practitioner in the wireless arts would have readily realized that to provide a higher QoS to some customers over other customers would make more sense if the higher QoS customers paid for their service.

Any inquiry concerning this communication should be directed to Creighton H. Smith at telephone number 571/272-7546.

Application/Control Number:
10/523,934
Art Unit: 2614

27 DEC '07

Page 4

Creighton H Smith
Primary Examiner
Art Unit 2614